

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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8  
9 MAY 13, 2003

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12 APPEARANCES:

13 MASON BRENT, GAS & OIL INDUSTRY REPRESENTATIVE  
14 KEN MITCHELL, CITIZEN APPOINTEE  
15 BENNY WAMPLER, DIRECTOR OF THE DMME & CHAIRMAN  
16 DONALD RATLIFF, COAL INDUSTRY REPRESENTATIVE  
BILL HARRIS, PUBLIC MEMBER

17 SHARON PIGEON, COUNSEL FOR THE BOARD WITH THE ATTORNEY  
GENERAL'S OFFICE  
18 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND  
PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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1		<u>INDEX</u>		
2	<u>AGENDA AND DOCKET NUMBERS:</u>	<u>UNIT</u>		<u>PAGE</u>
3	1-4) VGOB-03-0513-1147	AW-118		4
4	VGOB-03-0513-1148	AW-119		
5	VGOB-03-0513-1149	AY-119		
6	VGOB-03-0513-1150	BB-119		
7	5-6) VGOB-03-0513-1151	V-1		22
8	VGOB-03-0513-1152	V-2		
9	** Consol Energy Company's name merger			36
10	and name change			
11	7) VGOB-03-0513-1153	825184 (PPN-4)		42
12	8) VGOB-03-0513-1154	V-507922		49
13	** Minutes of last meeting approved			85
14	***Copy of agenda attached			
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
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1           BENNY WAMPLER: Good morning. My name is Benny  
2 Wampler. I'm Deputy Director for the Virginia Department of  
3 Mines, Minerals and Energy, and Chairman of the Gas and Oil  
4 Board. I'll ask the Board members to introduce themselves,  
5 starting with Mr. Brent..

6           MASON BRENT: My name is Mason Brent. I'm from  
7 Richmond and I represent the gas and oil industry.

8           KEN MITCHELL: My name is Ken Mitchell. I'm from  
9 Stafford County, Virginia and I am a citizen appointee.

10          SHARON PIGEON: I'm Sharon Pigeon. I advise the  
11 Board from the office of the Attorney General.

12          DONALD RATLIFF: I'm Donald Ratliff. I'm from Wise  
13 County. I represent the coal industry.

14          BOB WILSON: My name is Bob Wilson. I'm Director  
15 of the Division of Gas and Oil and principal executive to the  
16 staff of the Board.

17          BENNY WAMPLER: Thank you. The first item on  
18 today's agenda is a petition from CNX Gas Company, LLC, for  
19 pooling of coalbed methane unit AW-118. This is docket  
20 number VGOB-03-05/13-1147. We'd ask the parties that wish to  
21 address the Board in this matter come forward at this time.  
22 For those of you in the audience, can you hear me okay?

23               (No audible response.)

24          BENNY WAMPLER: All right. If you were interested

1 in addressing the Board in this matter, then what you would  
2 do, as we call this, as they're coming forward you would also  
3 come forward to a microphone, okay? So, whenever we get to  
4 your case that you're interested in, you'll need to come up  
5 and you sit there and we'll let them present their case and  
6 then give you an opportunity to address the Board. The  
7 record will show there are no others. You may proceed.

8           MARK SWARTZ: Mark Swartz and Les Arrington. Mr.  
9 Chairman, I would request if it makes...seems to make to the  
10 Board, that you consider combining the four Middle Ridge  
11 units that are on the docket today, which would be  
12 docket...the one you've just called and then also docket two,  
13 three and four.

14           BENNY WAMPLER: Okay. Does anybody have any  
15 problem with that?

16           (No audible response.)

17           BENNY WAMPLER: Okay, we'll also go ahead and  
18 call...this is a petition from CNX Gas Company, LLC, for  
19 pooling of a coalbed methane unit AW-119, docket number VGOB-  
20 03-05/13-1148; and unit AY-119, docket number VGOB-03-05/13-  
21 1149; and unit BB-199, docket number VGOB-03-05/13-1150.

22 We'd ask the parties that wish to address the Board in these  
23 matters to come forward at this time.

24           MARK SWARTZ: It would be Mark Swartz and Les



1 Arrington on those as well.

2 BENNY WAMPLER: The record will show there are no  
3 others. You may proceed.

4 MARK SWARTZ: These four units are all Middle Ridge  
5 units. I would point out to the Board, in terms of looking  
6 at exhibits, that AW-118 and 119, there are no amendments.  
7 We filed some certificates with regard to publication and  
8 mailing today. But there are not amendments concerning those  
9 two amendments concerning those two units. But with regard  
10 to AY-119 and BB-119, there are, in fact, amendments. When  
11 we get to those, you will discover that the reason for the  
12 amendment is we've obtained some leases since this was filed.  
13 So, there are less people that we're pooling. So, you'll  
14 see that they're each...each of these amendments has an  
15 exhibit B-2 which is the exhibit that we use to address  
16 dismissals. Then, obviously, we had a revised Exhibit B-3  
17 because, you know, we had noticed some people that we've  
18 leased and don't need to pool. So, that's...that's the  
19 reason for the amendments.

20 With that in mind, Les, could you state your name  
21 for the record, please?

22 COURT REPORTER: I need to swear him in.

23 LESLIE K. ARRINGTON: Leslie K. Arrington.

24 (Leslie K. Arrington is duly sworn.)

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LESLIE K. ARRINGTON

5 having been duly sworn, was examined and testified as  
6 follows:

7

DIRECT EXAMINATION

8 QUESTIONS BY MR. SWARTZ:

9 Q. Who do you work for?

10 A. CNX Gas Company, LLC.

11 Q. And is CNX Gas Company, LLC a Virginia  
12 limited liability Company?

13 A. Yes, it is.

14 Q. Is it authorized to do business in the  
15 Commonwealth?

16 A. Yes, it is.

17 Q. Has it registered with the DMME?

18 A. Yes, it is.

19 Q. And does it have a blanket bond on file with  
20 regard to reclamation and such issues?

21 A. Yes, it does.

22 Q. Who is it that the applicant is requesting  
23 be appointed operator if these four pooling applications are  
24 approved?

--

1 A. CNX Gas Company.

2 Q. What did you do to give notice to people  
3 that we're seeking to pool that there would be a hearing  
4 today?

5 A. Yes. For AW-118, we mailed by certified  
6 mail, return receipt requested on April the 15th, 2003. It  
7 published in the Bluefield Daily Telegraph on April the 25th  
8 of 2003.

9 Q. And when you published, what was it that  
10 appeared in the paper?

11 A. The notice of hearing and location exhibits.

12 Q. And with regard to 118, have you filed a  
13 copy of this certificate of publication and documents with  
14 regard to mailing with the Board today?

15 A. Yes, we have.

16 Q. What about 119...AW-119?

17 A. AW-119, again, mailed by certified mail,  
18 return receipt requested April the 15th, 2003; published in  
19 the Bluefield Daily Telegraph April the 22nd, 2003.

20 Q. And have you filed proofs with regard to  
21 publication and mailing with the Board with regard to unit  
22 AW-119 today?

23 A. Yes, we have.

24 Q. And when you published in the paper, again,

1 what did you publish concerning AW-119?

2 A. The notice of hearing and location exhibit.

3 Q. With regard to AY-119?

4 A. It was mailed on April the 15th, 2003, and  
5 it was published in the Bluefield Daily Telegraph on April  
6 the 28th, 2003.

7 Q. Have you filed proofs both with regard to  
8 mailing and publication with the Board today?

9 A. Yes, we have.

10 Q. And, again, when you published, what was  
11 published?

12 A. Notice of hearing and location exhibit.

13 Q. Do you want to dismiss any folks that you  
14 had originally named as respondents in unit AY-119?

15 A. Yes. Those people are mentioned in the  
16 revised or the submitted Exhibit B-2.

17 Q. And there are...and those folks pertain to a  
18 number of tracts and they're listed on the two pages of  
19 Exhibit B-2, correct?

20 A. Yes. And---?

21 Q. Go ahead.

22 A. Yes. I would like to also make a comment  
23 about Tract 2, there will be a further update to our exhibits  
24 that we have additionally leased the parties. So, we'll

--



1 further update that. They were leased yesterday and not  
2 enough time to get them in the exhibits.

3 Q. So, that will be in the supplemental order?

4 A. Yes, it will be.

5 Q. Okay. With regard to the reason why these  
6 folks are being dismissed as respondents, what would that be?

7 A. They were all leased.

8 BENNY WAMPLER: Would you speak up a little bit,  
9 please? Some of the folks, where your back is to them, is  
10 having difficulty hearing.

11 Q. Have you revised Exhibit B-3, as well?

12 A. Yes, we did.

13 Q. And is the revision to B-3 simply to  
14 subtract the people that you've obtained leases from?

15 A. Through yesterday.

16 Q. Through yesterday, right.

17 A. It will not include the two additional.

18 Q. I understand. And then, obviously, your  
19 standing with regard to this unit, or the percentage of  
20 interest that you have acquired and that you needed to pool,  
21 have changed, correct?

22 A. It has.

23 Q. And are those changes reflected on the  
24 revised Exhibit A, page two?

--

1 A. Yes, they are.

2 Q. And would you explain to the Board what  
3 interest you've acquired and what interest you are now  
4 seeking to pool, not including the leases that you obtained  
5 yesterday?

6 A. Yes. We've leased 99.3038% of the coal  
7 owner's claim to coalbed methane. We've leased 83.2097% of  
8 the oil and gas owner's claim to coalbed methane. We're  
9 seeking to pool 0.6962% of the coal owner's claim to coalbed  
10 methane and 16.7903% of the oil and gas owner's claim to  
11 coalbed methane.

12 Q. With regard to the Middle Ridge unit BB-119,  
13 the last of the four, what did you do with regard to Notice?

14 A. We mailed it by certified mail, return  
15 receipt April the 15th, 2003 and it was published in the  
16 Bluefield Daily Telegraph on April the 22nd, 2003.

17 Q. Have you filed proofs with the Board with  
18 regard to both publication and mailing?

19 A. Yes, we have.

20 Q. And when you published, what was published?

21 A. The notice of hearing and location exhibit.

22 Q. And with regard to BB-119, is there a  
23 request to the Board today that they dismiss certain people  
24 that you had originally named as respondents?

1 A. Yes. Listed in the Exhibit B-2.

2 Q. And, again, we have a two page exhibit  
3 pertaining to multiple tracts which lists folks that you're  
4 asking the Board to dismiss today, is that correct?

5 A. That's correct.

6 Q. And what is the reason for that request?

7 A. We've leased those individuals.

8 Q. And with regard to this unit, are there  
9 additional leases that are not reflected?

10 A. No.

11 Q. Okay. This ought...this Revised Exhibit B-2  
12 or this Exhibit B-2 should be the...we're not anticipating an  
13 amendment, let's put it that way?

14 A. That's correct.

15 Q. And then, obviously, because we have...we're  
16 requesting that certain people be dismissed as respondents,  
17 we need to revise Exhibit B-3 to subtract their names, is  
18 that correct?

19 A. Yes, sir.

20 Q. And is that...is that the only reason why B-  
21 3 has been changed?

22 A. Yes.

23 Q. With regard to A, page two, I assume the  
24 percentages have changed?



1 A. Yes, they have.

2 Q. Okay, could you go over that with the Board?

3 A. Yes. We've leased 89.20671% of the coal  
4 owner's claim to coalbed methane and 88.79794% of the oil and  
5 gas owner's claim to coalbed methane. We're seeking to pool  
6 10.79329% of the coal owner's claim to coalbed methane and  
7 11.20206% of the oil and gas owner's claim to coalbed  
8 methane.

9 Q. Let's go back to the first two units into  
10 the original exhibits for AW-119 and 118 in either order and  
11 let's look at standing with regard to both of those, please.

12 A. Okay. In AW-118, we have leased 98.9778% of  
13 the coal owner's claim to coalbed methane and 94.8286% of the  
14 oil and gas owner's claim to coalbed methane. We're seeking  
15 to pool 1.0222% of the coal owner's claim to coalbed methane  
16 and 5.1714% of the oil and gas owner's claim to coalbed  
17 methane.

18 Q. With regard to AW-119, what's...what's the  
19 standing as demonstrated by A, page two?

20 A. We have leased 99.8808% of the coal, oil and  
21 gas owner's claim to coalbed methane. We're seeking to pool  
22 0.1192% of the coal owner's claim to...coal, oil and gas  
23 owner's claim to coalbed methane.

24 Q. Okay. Now, are each of these four units a



1 58.74 acre Middle Ridge unit?

2 A. AW-118 is. AW-119 is. AY-119 will be. BB-  
3 119 will be, yes.

4 Q. Are you proposing one frac well for each of  
5 these units?

6 A. Yes, we are.

7 Q. And from the plats that are attached to  
8 these four applications, is it apparent that the...each of  
9 these four proposed wells is within in the drilling window?

10 A. Yes, they are.

11 Q. Okay. So, you don't need any location  
12 exceptions?

13 A. Correct.

14 Q. And in the Middle Ridge, the coalbed methane  
15 formations, or possible formations that would be addressed  
16 and possibly produced, start with the Jawbone on down if it's  
17 below drainage, correct?

18 A. That's correct.

19 Q. And is that what you're seeking to develop  
20 by these four frac wells?

21 A. Yes, it is.

22 Q. With regard to...I'd like to look at well  
23 cost estimates now and conflicts, and those sorts of issues.

24 Now, lets start with AW-118 and go through those issues.

--

1           A.       Yes.  AW-118, for the well and it's  
2 estimated cost is \$242,025.46, drilled to a total depth of  
3 2,388.10 feet.  Its permit number is 5485 issued August the  
4 26th of '02.

5           Q.       Now, in the case...with regard to escrow.  
6 In the case of AW-118, there is an Exhibit E attached,  
7 correct?

8           A.       There is.

9           Q.       And that indicates that there would need to  
10 be sub-accounts because of conflicts for Tracts 1, 7A, 7B and  
11 7C, correct?

12          A.       That's correct.

13          Q.       And there is also, as indicated in the  
14 exhibits, a title issue with regard to two of the claimants  
15 or owners in Tract 7C, correct?

16          A.       That's correct.

17          Q.       And so at least with regard to Tract 7C, in  
18 addition to a conflict, there is a title issue that needs to  
19 be resolved and the order should reflect that in terms of  
20 escrow?

21          A.       Correct.

22          Q.       And also it appears that you have a  
23 next...an Exhibit EE, correct?

24          A.       That's correct.

--

1 Q. And the two folks identified in Exhibit EE  
2 have entered into split agreements?

3 A. That's correct, in Tract No. 8.

4 Q. Okay. And are you requesting that the  
5 Board's order reflect that fact and allow the operator to pay  
6 these two folks directly, in accordance with their agreement?

7 A. Yes, we are.

8 Q. With---?

9 BENNY WAMPLER: Before you move on, let me just go  
10 ahead and address...would you repeat the permit number and  
11 the total depth because the numbers I have here didn't  
12 correspond with what you gave.

13 LESLIE K. ARRINGTON: Okay. I see what you mean.  
14 Okay. Yes, on...I see what you're talking about. Okay, the  
15 permit number, I'll have to check on that. It does conflict.  
16 And the depth, what you see there is the estimated depth  
17 2476 where it says estimated and that's the actual drilled  
18 depth of the well. It has just recently been drilled.

19 BENNY WAMPLER: What was that drilled depth?

20 LESLIE K. ARRINGTON: Drilled depth is 2388.10.

21 BENNY WAMPLER: Thank you. Go ahead. I'm sorry.

22 Q. With regard to AW-119, Les, well costs and  
23 other information and then we'll talk about escrow, as well.

24 A. Yes, AW-119, cost for the well is

--

1 \$240,241.75. Permit number is 5229, issued April...February  
2 the 7th, '02, drilled to a total depth of 2,322 feet.

3 Q. If I'm not mistaken, the only escrow  
4 requirement here would be because of some unlocateable folks  
5 in Tract 3, is that correct?

6 A. That's correct.

7 Q. With regard to now AY-119, let's talk about  
8 the well first and then we'll go to escrow.

9 A. Yes, AY-119 estimated cost of \$250,478.05,  
10 permit number 5457, issued July 29, '02, to a total depth of  
11 2,460 feet.

12 Q. Okay, and is that the drilled depth as  
13 opposed to an estimate because I---?

14 A. Yes, it is.

15 Q. Okay. So, the depth should be 2,460?

16 A. Correct.

17 Q. With regard to escrow, there is an Exhibit  
18 E, correct?

19 A. There is.

20 (Bill Harris enters and sits with the Board.)

21 Q. And that would disclose the names of the  
22 folks and tracts for which sub accounts need to be  
23 established, right?

24 A. Correct.



1 Q. And those would be Tracts 2, 4E, 5A, 5B, 5C  
2 and 5D, is that correct?

3 A. That's correct.

4 Q. And then we also have an Exhibit EE,  
5 correct?

6 A. Yes.

7 Q. And that indicates that a number of people  
8 in this unit have entered into royalty split agreements,  
9 correct?

10 A. Correct.

11 Q. And is it your request to the Board that the  
12 folks in the tracts identified in Exhibit EE be allowed to  
13 receive payment of their royalties directly from the operator  
14 and that there be no requirement of escrow?

15 A. That's correct.

16 Q. And those people that have entered into  
17 split agreements are in Tracts 2, 4A, 4B, 4C and 4Y...4E, I'm  
18 sorry. Is that correct?

19 A. Just...let me see the last...I believe it's  
20 5E.

21 Q. 5E, you're right.

22 SHARON PIGEON: Instead of 4Y?

23 MARK SWARTZ: Instead of 4E or 4Y. Yeah, it's 5E.

24 So, it would be 2, 4A, 4B, 4C and 5E would be the split

--

1 agreement tracts.

2 Q. Then with regard to the last unit, BB-119,  
3 what's the well information?

4 A. Yes, the estimated cost \$248,786.80, permit  
5 number 5646, issued January 10, '03, drilled to a total depth  
6 of 2,446.10 feet.

7 Q. Now in this unit, we have a bunch of folks  
8 with addresses unknown, is that correct?

9 A. That's correct.

10 Q. And it looks like they're in Tracts 1H, 1G,  
11 2 and 1E?

12 A. That's correct.

13 Q. And then we have some title issues, as well?

14 A. Yes, we do.

15 Q. I believe those title issues, let me look  
16 here, are in 1H...well, actually 1G, page ten of twenty-five;  
17 1...1H as well, page twenty of twenty-five; and also page  
18 twenty-three of twenty-five, we've got another title issue;  
19 and then Tract 2 there's also a title issue, page twenty-four  
20 of twenty-five, is that correct?

21 A. Yeah, I believe that's correct.

22 Q. Okay. So, we need an escrow, independent of  
23 any other reason, for title issues in those tracts. Then  
24 with regard to conflicts, there would be an escrow

--

1 requirement for sub accounts in Tracts 1G, 1H, 2, is that  
2 correct?

3 A. I believe also 1E.

4 Q. 1E. Let me look.

5 A. I believe that should be the first tract  
6 listed. Yeah, 1E.

7 Q. Okay. So, it would 1...the escrow for  
8 conflicts would be 1E, 1G, 1H in Tract 2?

9 A. Yes.

10 Q. And then lastly, we have an Exhibit EE  
11 again, correct?

12 A. Right.

13 Q. And does that list the folks who have  
14 entered into royalty split agreements?

15 A. Yes, it does.

16 Q. And are you requesting that the Board  
17 authorize the operator to pay those folks their royalties  
18 directly rather than escrowing them?

19 A. Correct.

20 Q. Now, with regard to the lease terms that the  
21 Board might use in any order it enters concerning...or with  
22 regard to folks who would be deemed to have been leased,  
23 would you tell the Board what terms you have been offering to  
24 the folks that you have been able to lease from and that you

--

1 would recommend for their use?

2 A. Yes, our standard coalbed methane lease is a  
3 \$1 per acre per year with a five year paid up term, with a  
4 one-eighth production payment.

5 Q. Lastly, I've got two final questions for  
6 you. First of all, is the development plan as disclosed by  
7 the applications and exhibits, which is specifically one frac  
8 well in the drilling window of each of these units, is that  
9 in your view a reasonable plan to develop the coalbed methane  
10 within these four units for the benefit of the owners and  
11 operator?

12 A. Yes, it is.

13 Q. Is it also your opinion that if you combine  
14 the leases and agreements that the operator and the applicant  
15 have obtained with a pooling order, that all of the owners  
16 and claimants correlative rights would then be protected?

17 A. Yes, it would.

18 MARK SWARTZ: That's all I have, Mr. Chairman.

19 BENNY WAMPLER: Questions from members of the  
20 Board?

21 KEN MITCHELL: One question, Mr. Chairman.

22 BENNY WAMPLER: Mr. Mitchell.

23 KEN MITCHELL: When I look at item number four,  
24 which is unit BB-119, I think I've counted seventy names. I

--



1 may be one or two off. But I think I counted seventy names  
2 where they have an address unknown. I'm just concerned  
3 there's that many people missing, you know. I mean, the  
4 second coming hasn't happened yet. So, I could understand if  
5 that happened. But I don't understand it. Can you...can  
6 you---

7 LESLIE K. ARRINGTON: Yes, sir.

8 KEN MITCHELL: --- (inaudible) and tell me why  
9 there's so many names missing?

10 LESLIE K. ARRINGTON: Yes, sir. This problem  
11 occurred back in the early 1900s when it belonged to...well,  
12 we'll say dad. He passes away and I think seven children,  
13 Anita, or eleven?

14 ANITA TESTER: I think it was eleven.

15 LESLIE K. ARRINGTON: Eleven. I mean, he was  
16 elderly at that point. So, those folks too would be pretty  
17 elderly. We have not been able to...the ones that we have  
18 been able to trace, we virtually know a 100% of them we've  
19 been able to lease. The family is spread out so much. So  
20 many of the people don't...I mean, you know, it's sad that  
21 these things do happen that you don't know who your real  
22 kinfolks are. But this family is spread out so far and so  
23 wide, we have not been able to identify these heirs and the  
24 group of heirs. There was a lot of children and we have been

--

1 leasing the ones that we can find.

2           KEN MITCHELL: So, in essence, we'll be...we'll be  
3 asked to escrow something like seventy accounts.

4           LESLIE K. ARRINGTON: Well, this is only for one  
5 tract.

6           KEN MITCHELL: Okay, okay.

7           LESLIE K. ARRINGTON: So, it's basically one tract.

8           KEN MITCHELL: It's all...it's all issued under...  
9 under one tract. Okay. Okay. I'd never seen seventy  
10 people---.

11           LESLIE K. ARRINGTON: Yes. And I believe in  
12 this...let me look back just to make sure. Yeah. And what  
13 you're going to find in particular in this tract, and I  
14 believe it's going to be Tract 1G...if you'll notice, one of  
15 the things that's going on there also is this is one of those  
16 tracts that we're not sure of who the owner is. It's taken  
17 quite a bit of time and effort just to get it down to this  
18 point to know, well, it's one of these three owners. We  
19 have...we've spent a fair bit of time here.

20           KEN MITCHELL: Okay. Thank you, sir.

21           BENNY WAMPLER: Do you have any disturbance planned  
22 to occur on 1G?

23           LESLIE K. ARRINGTON: No, sir.

24           BENNY WAMPLER: Other questions from members of the

--

1 Board?

2 (No audible response.)

3 BENNY WAMPLER: Do you have anything further?

4 MARK SWARTZ: No.

5 BENNY WAMPLER: Is there a motion?

6 MASON BRENT: Mr. Chairman, I move that we grant

7 the applications.

8 DONALD RATLIFF: Second.

9 BENNY WAMPLER: Motion to approve and a second.

10 Any further discussion?

11 (No audible response.)

12 BENNY WAMPLER: All in favor, signify by saying

13 yes.

14 (All members signify by saying yes.)

15 BENNY WAMPLER: Opposed, say no.

16 (No audible response.)

17 BENNY WAMPLER: You have approval. The next item

18 on the agenda is a petition from CNX Gas Company, LLC, for

19 pooling of a methane unit...coalbed methane unit V-1. This

20 docket number VGOB-03-05/13-1151. We'd ask the parties that

21 wish to address the Board in this matter to come forward at

22 this time.

23 MARK SWARTZ: Mark Swartz and Les Arrington.

24 BENNY WAMPLER: The record will show there are no

--



1 others. You may proceed.

2 MARK SWARTZ: Mr. Chairman, I would request that  
3 the Board consider combining this unit with the V-2 unit  
4 hearing that's the next item on the docket.

5 BENNY WAMPLER: I'll go ahead and call that now.  
6 We'll also call the petition for the unit...coalbed methane  
7 unit V-2, docket number VGOB-03-05/13-1152. We'd ask the  
8 parties that wish to address the Board in this matter to come  
9 forward at this time.

10 MARK SWARTZ: Mark Swartz and Les Arrington again  
11 on that, as well.

12 BENNY WAMPLER: The record will show there are no  
13 others. You may proceed.

14

15

16

17

18 LESLIE K. ARRINGTON

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. SWARTZ:

21 Q. Les, you need to state your name again.

22 A. Yes. Leslie K. Arrington.

23 Q. Who do you work for?

24 A. CNX Gas Company, LLC.

--



1 Q. I'm going to remind you that you're still  
2 under oath, okay.

3 A. Yes.

4 BENNY WAMPLER: Let me interrupt just one second,  
5 and welcome Mr. Harris. If you will, announce yourself.

6 BILL HARRIS: Yes. I'm sorry I'm late. Bill  
7 Harris, a public member from Wise County, Virginia.

8 BENNY WAMPLER: Thank you. Good to have you. Go  
9 ahead.

10 Q. Who do you work for?

11 A. CNX Gas Company, LLC.

12 Q. Is CNX the applicant for both of these  
13 applications?

14 A. Yes, we are.

15 Q. And is CNX a wholly owned indirect  
16 subsidiary of Consol Energy, Inc.?

17 A. Yes, it is.

18 Q. Are these two units both 80 acre Oakwood  
19 units?

20 A. Yes, they are.

21 Q. And is the plan...is the proposal that each  
22 of these two units would contain one frac well?

23 A. Yes.

24 Q. And in both units, is that frac well either

--

1 located or proposed to be located within the drilling window?

2 A. Yes, it is.

3 Q. So, there's no requirement here or need for  
4 an exception?

5 A. Correct.

6 Q. And it looks like there are revised exhibits  
7 with regard to both of these units, correct?

8 A. That's correct.

9 Q. Okay. Let's go through...let's start with  
10 notice issues and then we'll just kind of work through each  
11 of the units in terms of the revised exhibits. What did you  
12 do and when to notify people of the hearing with regard V-1?

13 A. Both V-1 and V-2 was mailed certified mail  
14 on April the 15th, 2003. V-1 was published in the Bluefield  
15 Daily Telegraph on April the 23rd of 2003; and V-2 was  
16 published April the 24th, 2003.

17 Q. And have you filed proofs with regard to  
18 both mailing and publication for both of these units with the  
19 Board today?

20 A. Yes, we have.

21 Q. And when you published the notices with  
22 regard to these units in the paper, what appeared in the  
23 paper?

24 A. The notice of hearing and location exhibit.

--

1 Q. There's an Exhibit B-2 that has been  
2 tendered this morning to the Board with regard to both of  
3 these units, is that correct?

4 A. Yes, it is.

5 Q. And what's the reason for that?

6 A. We have leased an individual, Terry Boyd.

7 Q. And so there would be an Exhibit B-2  
8 identifying him with regard to both of these applications,  
9 correct?

10 A. That's correct.

11 Q. And then I would imagine the reason, and  
12 correct me if I'm wrong, that the reason for the revised  
13 Exhibit B-3 is that Terry Boyd has been subtracted from that?

14 A. That's correct.

15 Q. With regard to revised Exhibit A, page two,  
16 has that been adjusted to change an unleased percentage to a  
17 lease percentage?

18 A. Yes, it has.

19 Q. Okay. With regard, starting with B-1, could  
20 you go through revised Exhibit A, page two, as long as we  
21 have it in hand here?

22 A. Yes. We have leased 96.98391% of the coal,  
23 oil and gas claim to coalbed methane. We're seeking to pool  
24 3.01609% of the coal, oil and gas interest.

--

1 Q. Now, with regard to V-2, what's...who is it  
2 that's being...that you're requesting be dismissed in Exhibit  
3 B-2?

4 A. It's the same interest, Terry Boyd. In that  
5 unit, we have leased 97.39513% of the coal, oil and gas  
6 coalbed methane interest and we're seeking to pool 2.60487%  
7 of the coal, oil and gas claim to coalbed methane.

8 Q. And the only change to Exhibit B-3 then  
9 compared...if we were to compare the B-3 that accompanied the  
10 application when it was originally filed and today, the  
11 revised, is to subtract Terry Boyd, correct?

12 A. That's correct.

13 Q. Okay. The applicant here is a limited  
14 liability company, is that correct?

15 A. Yes, it is.

16 Q. Under the laws of the Commonwealth of  
17 Virginia?

18 A. Yes.

19 Q. Is it authorized to do business in the  
20 Commonwealth?

21 A. Yes.

22 Q. Has it registered with the DMME and does it  
23 have a blanket bond on file?

24 A. Yes.

--



1 Q. And is the request here that CNX, if the  
2 Board pools these two units, would be appointed as the  
3 designated operator for the units?

4 A. Correct.

5 Q. Obviously, you've leased the majority of the  
6 claimants and owners in both of these units. What terms have  
7 you offered them?

8 A. Our standard coalbed methane lease is a \$1  
9 per acre per year with a five year paid up term and a one-  
10 eighth production royalty.

11 Q. And would you recommend those terms to the  
12 Board to be inserted in any order that they might enter with  
13 regard to folks who have been deemed to have been leased?

14 A. Yes, we would.

15 Q. In the Oakwood 80 acre units, the  
16 development or the pooled formations are from the Tiller on  
17 down, is that correct?

18 A. All coal seams below the Tiller, yes.

19 Q. Okay. And is that your plan here with  
20 regard to both of these units?

21 A. Yes, it is.

22 Q. Let's start with V-1 and address well costs.

23 A. V-1, the estimated cost is \$240,545.98,  
24 drilled to an estimated depth of 2,450 feet. The permit

--

1 number is 5715. It was issued on March 27, '03.

2 Q. It looks like the only requirement for  
3 escrow here would be...pertain to Tract 1 because of an  
4 unlocateable issue?

5 A. That's correct.

6 Q. Turning to unit V-2, tell us about the well.

7 A. The estimated cost of \$240,567.25, permit  
8 number 5709, issued March 25 of '03.

9 Q. And you've got an estimated depth?

10 A. Yes, I do. Estimated depth of 2460.

11 Q. And it appears, again, that in Tract 1 we've  
12 got an unlocateable and that would be the only reason for  
13 escrow in this unit?

14 A. Correct.

15 Q. Is it your opinion that the development plan  
16 as disclosed by these two exhibits and the attached... these  
17 two applications and the attached exhibits, specifically, to  
18 drill one frac well per unit, is a reasonable plan to develop  
19 the coalbed methane within these units?

20 A. Yes, it is.

21 Q. And is it your opinion that if you combine  
22 the leasing efforts of the applicant and a pooling order  
23 here, that there will be a mechanism in place to protect the  
24 correlative rights of all owners and claimants to the coalbed

--

1 methane in these two units?

2 A. Yes, it is.

3 MARK SWARTZ: Mr. Wampler, that's all I have.

4 BENNY WAMPLER: Questions from members of the  
5 Board?

6 KEN MITCHELL: Mr. Chairman, may I ask one  
7 question?

8 BENNY WAMPLER: Mr. Mitchell.

9 KEN MITCHELL: Mr. Swartz, this is a very technical  
10 question and I apologize for putting you on a hot seat. I  
11 noticed in item number five, which is V-1, there were eight  
12 unknown surface owners. I notice in item number six there  
13 were sixteen unknown surface owners. In...in most counties  
14 because Virginia is a Dillon Rule State, most county laws are  
15 pretty much uniformed throughout. If...if someone doesn't  
16 pay taxes on the land, the land is sold within three years.  
17 So, it amazes me there are sixteen ...there are twenty-four  
18 people...I realize surface owners don't the have the rights  
19 as mineral owners. But it amazes me that there's no owners  
20 of the land. Maybe I need to come down here and buy some  
21 land or something, you know. But every three years in our  
22 county, we put the land up for auction if it's not paid  
23 for...if someone is not paying the taxes on it.

24 MARK SWARTZ: My answer would be that's not how it

--



1 works in Southwest Virginia, but Les can address that.

2 KEN MITCHELL: Well, I mean...I mean...and maybe  
3 you're right...maybe you're right. But Virginia---.

4 MARK SWARTZ: You would be lynched if you were in  
5 the government in Buchanan County and do that---.

6 KEN MITCHELL: Virginia---.

7 MARK SWARTZ: ---every three years.

8 KEN MITCHELL: But Virginia (inaudible) state  
9 subject to all...all laws have to be uniform. We can't pass  
10 laws in our county that are different than laws in your  
11 county. I don't understand why there's twenty-four surface  
12 owners that we don't know who they are. I realize surface  
13 rights and mineral rights are two different issues.

14 MARK SWARTZ: Well, I'm going to give you two  
15 answers. One answer is something that I've heard a lot when  
16 I'm asking people questions at depositions or hearings and  
17 they give me an answer and I'm pursuing that with them  
18 because it seems odd to me and I get the answer again and  
19 they finally give up on me and say, "You must not be from  
20 around here." Okay.

21 KEN MITCHELL: And you're correct. I'm not.

22 MARK SWARTZ: So, it is different. It is a  
23 different procedure out here. The other thing that I would  
24 point out is surface owners...our radar screen is not as

--



1 finely tuned for surface owners. If we are not going to be  
2 disturbing their surface, okay, we are really not under any  
3 obligation to give them a notice. I mean...and, obviously,  
4 since this is not a permitting setting---

5 KEN MITCHELL: Right. I agree.

6 MARK SWARTZ: ---you know, disturbing surface isn't  
7 even an issue. But ultimately, you know, when we...when we  
8 look at a unit and we're looking at surface, if there has  
9 been a severance, obviously we'd have to satisfy ourselves to  
10 that. But if there has been a severance and the well is not  
11 going to be located on a particular tract and/or we're not  
12 going to have infrastructure on that tract, then in terms of  
13 our due diligence for title, we don't really have to do title  
14 on the surface for those tracts. So, it could be two things.  
15 One is the surface title is not cleaned up periodically like  
16 you're use to seeing, okay. And the second thing is, from  
17 the standpoint of pooling, surface owners are not really  
18 relevant unless we know that we're going to be putting a well  
19 on it. You know, so we're---

20 KEN MITCHELL: Right.

21 MARK SWARTZ: ---not going to spend the amount of  
22 time and effort there. Now, in the permitting process, if  
23 we're disturbing surface or anticipate we're going to disturb  
24 surface, obviously, we've got to do a much stronger job

--

1 there.

2           KEN MITCHELL: But your testimony here today is  
3 stating that the twenty-four tracts of land that have no  
4 known owner, that...that you will not be disturbing their  
5 land?

6           MARK SWARTZ: I'll have to ask Les that question.

7           LESLIE K. ARRINGTON: That is very correct.

8           KEN MITCHELL: I'd hate to come back twenty years  
9 later and find my land with roads and---.

10          LESLIE K. ARRINGTON: Yeah. But that is correct.

11          KEN MITCHELL: Yeah, okay.

12          LESLIE K. ARRINGTON: You'll...you should notice on  
13 virtually anything, and I can't recall of anything, that we  
14 would show a surface unknown on a tract that we're  
15 disturbing. You should not see that.

16          KEN MITCHELL: Okay, I just...I just...I just  
17 wanted on the record, and it's in testimony and that's...  
18 that's what I wanted. Thank you, sir.

19          MARK SWARTZ: I think we have a...you know, I think  
20 it has been a long time and it may not have been Les'  
21 companies. But I seem to recall publishing notice of a well  
22 work permit application because we've had some unknowns. So,  
23 if you can't find them and mail to them, you know, the way  
24 you give notice would be to publish. And I can recall...it

--

1 might have been somebody else that I represented, but I can  
2 recall publishing at permitting process because we couldn't  
3 ...couldn't ident...we couldn't find out who owned a surface  
4 tract. But that would be very unusual. I mean, normally  
5 when we're disturbing surface in a permitting setting, you  
6 know, we're able to find...find people. But sometimes, you  
7 know, you just can't.

8           KEN MITCHELL: I just thought twenty-four was a  
9 unique number. I mean, I understand there's people you can't  
10 find. But---.

11           MARK SWARTZ: Land forfeitures in Southern West  
12 Virginia and Southwest Virginia are not as predictable as  
13 they might be in other parts of the country or even the  
14 Commonwealth. Just it's different. They're just not  
15 pursued.

16           BENNY WAMPLER: Other questions from members of the  
17 Board?

18           DONALD RATLIFF: Mr. Chairman.

19           BENNY WAMPLER: Mr. Ratliff.

20           DONALD RATLIFF: On your tract identification,  
21 under the Rural Fuller, is the Widow Kennedy below the  
22 Tiller?

23           LESLIE K. ARRINGTON: No.

24           DONALD RATLIFF: Then why would National Energy

--



1 Corporation have a claim?

2 LESLIE K. ARRINGTON: Which unit is that?

3 DONALD RATLIFF: It's...it's V-1. It says

4 "Percentage of Widow Kennedy and above coal seams. Then

5 Island creek has the coal below the Tiller seam."

6 LESLIE K. ARRINGTON: Okay. I just had to make

7 sure exactly what it said. Widow Kennedy...of course,

8 all...we go through to identify all mineral owners. That's

9 the reason you'll see...I mean, whether it's above drainage,

10 below drainage, we attempt to identify everyone. In

11 particular, in the well permitting process, those folks would

12 also get a notice. That's the reason you'll see it listed in

13 there. Now, do they have a coalbed methane interest there,

14 no, they don't.

15 DONALD RATLIFF: You're just going through their

16 coal?

17 LESLIE K. ARRINGTON: Yes.

18 BENNY WAMPLER: Other questions from members of the

19 Board?

20 (No audible response.)

21 BENNY WAMPLER: Do you have anything further?

22 MARK SWARTZ: No.

23 BENNY WAMPLER: Is there a motion?

24 DONALD RATLIFF: I move that we accept these two

--



1 petitions, Mr. Chairman.

2 BENNY WAMPLER: I have a motion to approve.

3 MASON BRENT: Second.

4 BENNY WAMPLER: Motion and second. Any further  
5 discussion?

6 (No audible response.)

7 BENNY WAMPLER: All in favor, signify by saying  
8 yes.

9 (All members signify by saying yes.)

10 BENNY WAMPLER: Opposed, say no.

11 (No audible response.)

12 BENNY WAMPLER: You have approval. I want---.

13 MARK SWARTZ: I---.

14 BENNY WAMPLER: Go ahead.

15 MARK SWARTZ: I would...we have prepared a draft  
16 order with regard to the name change issue that---.

17 BENNY WAMPLER: That's what I was going to raise.

18 MARK SWARTZ: ---we had talked extensively about a  
19 month ago or maybe it was two months ago. I would like, if  
20 we could, perhaps take a moment to deal with that today.

21 BENNY WAMPLER: Yes, I'd like to because I think  
22 before we had a general discussion today, you're actually  
23 moving to ask us to accept that.

24 MARK SWARTZ: Yes.

--

1           BENNY WAMPLER: Folks, this is an item that's not  
2 specifically on the agenda for today. Just so that you know  
3 they're changing the name and they're asking us to approve  
4 that name change of their corporation.

5           (Mark Swartz passes out an exhibit.)

6

7                           LESLIE K. ARRINGTON

8                           DIRECT EXAMINATION

9   QUESTIONS BY MR. SWARTZ:

10           Q.       Les, could you tell the...well, let me ask  
11 you just a couple of questions. Has...has there been a...a  
12 new company set up to offer the properties that were  
13 formerly...that you would formerly see Buchanan Production  
14 Company come in here with regard to or Pocahontas Gas  
15 Partnership come in here?

16           A.       Yes, it is.

17           Q.       And that new company, what's the name of  
18 that company?

19           A.       CNX Gas Company, LLC.

20           Q.       And is it a Virginia Limited Liability  
21 Company?

22           A.       Yes, it is.

23           Q.       And we've talked about it some today, but is  
24 that company registered with the DMME?

--

1           A.       Yes, it is.

2           Q.       And has it posted a blanket bond?

3           A.       Yes, it has.

4           Q.       And, obviously, if it's a limited liability  
5 company under the laws of the Commonwealth, one would assume  
6 correctly, I hope, that it's authorized to do business in the  
7 Commonwealth?

8           A.       That's correct.

9           Q.       Is...is this CNX Company, LLC a wholly owned  
10 indirect subsidiary of Consol Energy, Inc.?

11          A.       Yes, it is.

12          Q.       And has Pocahontas Gas Partnership and  
13 Buchanan Production Company merged into CNX Gas Company, LLC?

14          A.       Yes, it has.

15          Q.       And that's the reason that we saw today that  
16 CNX Gas Company was actually the applicant as well as the  
17 person that was seeking to be designated operator?

18          A.       That's correct.

19          Q.       And have we prepared an order here which  
20 would simply acknowledge the occurrence of what we've just  
21 discussed?

22          A.       Yes, we have.

23          Q.       And then, have we listed in Exhibit A the  
24 orders entered before today that would be affected by this

--

1 name...by essentially this name change?

2 A. Yes, we attempted to list every order. Yes,  
3 we have.

4 Q. And the point being that this would allow  
5 the entry and recording of one order to modify the designated  
6 operator provision of all the orders listed in Exhibit A?

7 A. Correct.

8 Q. Sort of a housekeeping issue?

9 A. Yes, it is.

10 Q. And the orders that are on route...or in  
11 process to the extent that they haven't already been signed,  
12 obviously, we're requesting that the designated operator in  
13 those...you know, if there's time, be CNX Gas Company, LLC so  
14 that we don't have to come back one more time?

15 A. Correct.

16 Q. Okay. And CNX Gas, I believe, will also be  
17 operating some of the wells that were permitted by Island  
18 Creek, correct?

19 A. That's correct.

20 Q. But I take it there has not been a merger  
21 there? That's an operational issue?

22 A. That's correct. It is a permitting issue.

23 MARK SWARTZ: That would be all we would offer in  
24 this regard. I mean, obviously, if you've got questions.

--



1           BENNY WAMPLER: I have one, I guess. Other than  
2 the issue raised with Island Creek, is everything else then  
3 now CNX Gas Company, LLC?

4           LESLIE K. ARRINGTON: Yes, it is.

5           BENNY WAMPLER: Questions from members of the  
6 Board?

7           MARK SWARTZ: Oh, I forgot to ask you when this was  
8 effective? Was it April 1?

9           LESLIE K. ARRINGTON: It was April 1.

10          MARK SWARTZ: I'm sorry.

11          BENNY WAMPLER: Questions from members of the  
12 Board?

13          KEN MITCHELL: Mr. Chairman, my only question is,  
14 so what we're looking at today is approval of the name change  
15 and then approval of that new LLC being over all of the  
16 previous existing orders that were issued by this Board, and  
17 at that point everything will be notarized and documented?

18          BENNY WAMPLER: At that point, upon the Board's  
19 approval, all of those items listed in Exhibit A would be  
20 effectively changed to instead of whatever company, Buchanan  
21 Production or however they were previously listed, would not  
22 be CNX Gas Company, LLC. Is that correct, Les?

23          LESLIE K. ARRINGTON: Yes, it is.

24          BENNY WAMPLER: Other questions from members of the

1 Board?

2 MASON BRENT: Just one, Mr. Chairman. This would  
3 be subject to review by our counsel, I would assume?

4 BENNY WAMPLER: Yes. Any other questions?

5 (No audible response.)

6 BENNY WAMPLER: Approval of effective April the  
7 1st, is that---?

8 MARK SWARTZ: Probably.

9 LESLIE K. ARRINGTON: Well, that was the effective  
10 date of our permit changes---.

11 BENNY WAMPLER: Okay.

12 LESLIE K. ARRINGTON: ---was the effective date.

13 MARK SWARTZ: I don't think you have to make it  
14 retroactive for our purposes. But we wanted you to know  
15 that---.

16 BENNY WAMPLER: I mean, we'll probably just  
17 incorporate in here that that's when you did the change.  
18 Effective is all I was looking for.

19 MARK SWARTZ: That's fine.

20 BENNY WAMPLER: Other questions from members of the  
21 Board?

22 (No audible response.)

23 BENNY WAMPLER: Do you have anything further?

24 MARK SWARTZ: No.

1           BENNY WAMPLER: Is there a motion?

2           DONALD RATLIFF: So moved, Mr. Chairman.

3           BENNY WAMPLER: Motion to accept.

4           BILL HARRIS: Second.

5           BENNY WAMPLER: Motion and second. Any further  
6 discussion?

7           (No audible response.)

8           BENNY WAMPLER: All in favor, signify by saying  
9 yes.

10           (All members signify by saying yes.)

11           BENNY WAMPLER: Opposed, say no.

12           (No audible response.)

13           BENNY WAMPLER: You have approval. Thank you.

14           MARK SWARTZ: Thank you.

15           BENNY WAMPLER: We'll go ahead and call this next  
16 item and take five minute break. A petition from Columbia  
17 Natural Resources, Inc., for a well location exception for  
18 proposed well 825184 in the Knox District, VGOB-03-05/13-  
19 1153. We'd ask the parties that wish to address the Board in  
20 this matter to come forward at this time. While they're  
21 doing that, we'll take five minute break.

22           (Off record.)

23           BENNY WAMPLER: Just before break, we called docket  
24 number VGOB-03-05/13-1153. We'd ask the parties that wish to



1 address the Board in this matter to come forward at this  
2 time.

3 JIM KISER: Mr. Chairman and members of the Board,  
4 Jim Kiser and Jason Stidham on behalf of Columbia Natural  
5 Resources.

6 MARK SWARTZ: Mr. Chairman, before we get started,  
7 I'd like to recuse myself.

8 BENNY WAMPLER: Okay, Mr. Brent is recused.

9 BENNY WAMPLER: The record will show there are no  
10 others. You may proceed.

11 JIM KISER: Mr. Stidham, if you'd state your name  
12 for the record, who you're employed by and in what capacity.

13 COURT REPORTER: I need to swear him in.

14 JIM KISER: Oh, I'm sorry.

15 COURT REPORTER: Raise your right hand.

16 (Jason Stidham is duly sworn.)

17

18

19 JASON STIDHAM

20 having been duly sworn, was examined and testified as  
21 follows:

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. KISER:

24 Q. Okay, now, Mr. Stidham, if you'd state your

--



1 name for the record, who you're employed by and in what  
2 capacity?

3 A. My name is Jason Stidham. I work for  
4 Columbia Natural Resources. I'm a drilling/production  
5 engineer.

6 Q. And this is your first time testifying  
7 before the Virginia Gas and Oil Board. In conjunction with  
8 that, we have passed out a copy of your personal resume. At  
9 this time, if you would please go through both your  
10 educational background and your work experience for the  
11 Board's benefit.

12 A. I obtained a B.S. degree in Petroleum  
13 Natural Gas Engineering from Penn State University, carrying  
14 a 3.87 cumulative GPA average. Through college career I had  
15 two summer experience. One with Chevron in Bakersfield,  
16 California with a roustabout; one with British Petroleum in  
17 Houston, Texas as a inhouse reservoir engineer. I began my  
18 career with Schlumberger out of Prestonsburg, Kentucky. In  
19 that position, I supervised both cement and frac crews. When  
20 I made the change and come to Columbia, I've overseen the  
21 drilling of part of the way into Southwest Region here  
22 recently. I'm responsible for the whole drilling program in  
23 the Southwest Region.

24 JIM KISER: Mr. Chairman, we'd submit Mr. Stidham

1 as an expert witness in the areas of production and  
2 operations.

3 BENNY WAMPLER: Any questions from members of the  
4 Board?

5 (No audible response.)

6 BENNY WAMPLER: You may proceed.

7 Q. Now, Mr. Stidham, do your responsibilities  
8 include the land involved here for well number 25184 and in  
9 the surrounding areas?

10 A. Yes.

11 Q. Are you familiar with the application that  
12 we filed seeking a location exception for this well?

13 A. Yes.

14 Q. Have all interested parties been notified as  
15 required by Section 4(B) of the Virginia Gas and Oil Board  
16 Regulations, that being in this particular case, Buchanan  
17 Energy Company?

18 A. Yes.

19 Q. Would you indicate for the Board the  
20 ownership of the oil and gas underlying the unit for well  
21 number 825184?

22 A. It's Buchanan Energy Company 100%.

23 Q. Okay, now we're seeking an exception from  
24 three different reciprocal wells. Those being 87688415 and

1 24730. Are all those...does CNR have the right to operate  
2 all those reciprocal wells?

3 A. Yes.

4 Q. And are there any correlative rights issues?

5 A. No.

6 Q. In other words, the units that are  
7 established for the wells for which we're seeking...seeking  
8 the exception are also 100% Buchanan Energy units, correct?

9 A. Yes.

10 Q. Now, in addition to your resume, we also  
11 passed out a fairly large map as another exhibit. Could you,  
12 in conjunction with that exhibit, explain for the Board why  
13 we are seeking to drill...why we're seeking this variance and  
14 why we're seeking to drill 25184 where we are?

15 A. If you look at the southwest section of that  
16 map, you'll see a circle that has a PPN 4 by it. To gain the  
17 proper 2500 foot spacing, we would have to go approximately  
18 five to six hundred foot mostly in the eastern direction,  
19 which would put it back in an excess spoil area and would  
20 interfere with mining operations under the Virginia Energy  
21 Company.

22 Q. So, Virginia Energy Company is the coal  
23 lessee of Buchanan Energy Company and they have...when you  
24 originally submitted your first location, they've



1 asked...which was a legal location, they've asked you to move  
2 it to this spot to avoid their mining operations?

3 A. Correct.

4 JIM KISER: Does anybody have any questions  
5 regarding the map or testimony?

6 BENNY WAMPLER: What was PPN 4? Is this the  
7 proposed location that you have---?

8 JASON STIDHAM: Yes.

9 BENNY WAMPLER: ---identified in the southwestern  
10 corner of this map?

11 JASON STIDHAM: What Columbia Natural Resources  
12 does is they have prospect spots. PPN 4 designates a  
13 prospect spot. Once the well has decided to be drilled, it's  
14 assigned a five digit number and that's---.

15 JIM KISER: Well, I think what he's asking is that  
16 going to be the actual location?

17 JASON STIDHAM: Yes, that is the physical location.

18 BENNY WAMPLER: And that's in an excess spoil area,  
19 right?

20 JASON STIDHAM: It's on the outskirts.

21 BENNY WAMPLER: Outskirts.

22 JIM KISER: Right on the edge of it.

23 JASON STIDHAM: Right on the edge.

24 JIM KISER: And that site at that location has been



1 approved by both the coal lessee and the coal owner?

2 JASON STIDHAM: Yes.

3 BENNY WAMPLER: Any questions from members of the  
4 Board at this time?

5 (No audible response.)

6 BENNY WAMPLER: Go ahead.

7 Q. And in the event this location exception  
8 were not granted, would you project the estimated lost of  
9 reserves resulting in waste for this unit?

10 A. 300 million cubic feet.

11 Q. And the total depth of the proposed well  
12 under the plan of development?

13 A. It's 5,517 feet to include formations  
14 consistent with a well work permit now pending before the  
15 DMME.

16 Q. Okay. And is the applicant requesting that  
17 this location exception cover conventional gas reserves to  
18 include those designated formations from the surface to the  
19 total depth drilled?

20 A. Yes.

21 Q. In your professional opinion, would the  
22 granting of this location exception application be in the  
23 best interest of preventing waste, protecting correlative  
24 rights and maximizing the recovery of the gas reserves

1 underlying the unit for 825184?

2 A. Yes.

3 JIM KISER: Nothing further of this witness at this  
4 time, Mr. Chairman?

5 BENNY WAMPLER: Questions from members of the  
6 Board?

7 (No audible response.)

8 BENNY WAMPLER: Do you have anything further?

9 JIM KISER: Mr. Chairman, we'd ask that the  
10 application be approved as submitted.

11 BENNY WAMPLER: Is there a motion?

12 DONALD RATLIFF: So moved.

13 BENNY WAMPLER: Motion to approve.

14 BILL HARRIS: Second.

15 BENNY WAMPLER: Seconded. Any further discussion?

16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying  
18 yes.

19 (All members signify by saying yes.)

20 BENNY WAMPLER: Opposed, say no.

21 (No audible response.)

22 BENNY WAMPLER: You have approval. Thank you.

23 The next item on the agenda is a petition from Equitable  
24 Production Company for pooling of a conventional gas unit V-

1 507922, docket number VGOB-03-05/13-1154. We'd ask the  
2 parties that wish to address the Board in this matter to come  
3 forward at this time.

4 JIM KISER: Mr. Chairman, in this matter, Jim Kiser  
5 on behalf of Equitable Production Company. Our witness in  
6 this matter will be Mr. Don Hall. We'd ask that he be sworn  
7 at this time.

8 (Don Hall is duly sworn.)

9 BENNY WAMPLER: Okay, I'll ask you to introduce  
10 yourself, please. Identify yourself.

11 BOBBY EUGENE MULLINS: Bobbie Eugene Mullins.

12 BENNY WAMPLER: Okay. Sir, would you introduce  
13 yourself, please.

14 WILLIAM MULLINS: My name is William Mullins.

15 BENNY WAMPLER: William Mullins. Okay, thank you.

16 WILLIAM MULLINS: One of the heirs.

17 BENNY WAMPLER: Thank you. The record will show  
18 there are no others. You may proceed.

19

20 DON HALL

21 having been duly sworn, was examined and testified as  
22 follows:

23 DIRECT EXAMINATION

24 QUESTIONS BY MR. KISER:

--



1           Q.       Mr. Hall, could you state your name for the  
2 Board, who you're employed by and in what capacity?

3           A.       My name is Don Hall. I'm employed by  
4 Equitable Production Company as District landman.

5           Q.       And do your responsibilities include the  
6 land involved here and in the surrounding area?

7           A.       They do.

8           Q.       And are you familiar with Equitable's  
9 application for the establishment of a drilling unit and  
10 seeking to pool any unleased interest for EPC well number V-  
11 507922, which was dated April the 14th, 2003?

12          A.       Yes.

13          Q.       And does Equitable own drilling rights in  
14 the unit involved here?

15          A.       We do.

16          Q.       Now prior to filing the application, were  
17 efforts made to contact each of the respondents in the unit  
18 and an attempt made to work out voluntary agreement regarding  
19 the development of the unit?

20          A.       Yes.

21          Q.       And what is the interest of Equitable in the  
22 unit that's under lease at this time?

23          A.       We have 87.17% of the unit leased.

24          Q.       And are you familiar with the ownership of

1 drilling rights of parties other than Equitable underlying  
2 this unit?

3 A. Yes.

4 Q. And what are those?

5 A. 12.83% that's unleased.

6 Q. And that represents Tract 3 which is owned  
7 by the Thomas Mullins heirs?

8 A. That's correct.

9 Q. Okay. Now, subsequent to the filing of the  
10 application, have you continued to attempt to reach an  
11 agreement with any respondents listed in Exhibit B?

12 A. Yes.

13 Q. And as a result of these efforts, have you  
14 been able to acquire any leases from the respondents who are  
15 listed at Exhibit B as unleased owners?

16 A. No.

17 Q. Okay. Are all the unleased owners set out  
18 in Exhibit B?

19 A. Yes.

20 Q. All right. In this particular case we don't  
21 have any unknown interest owners?

22 A. No.

23 Q. In your professional opinion, was due  
24 diligence exercised to locate each of the respondents named

1 in Exhibit B?

2 A. Yes.

3 Q. And are the addresses set out in Exhibit B,  
4 to the best of your knowledge, the last known addresses for  
5 the respondents?

6 A. They are.

7 Q. Are you requesting this Board to force pool  
8 all the unleased interest listed at Exhibit B to the  
9 application?

10 A. Yes.

11 Q. Now, are you familiar with the fair market  
12 value of drilling rights in the unit here and in the  
13 surrounding area?

14 A. Yes.

15 Q. Could you please advise the Board as to what  
16 those are?

17 A. We pay a five dollar bonus, five year term  
18 with a one-eighth royalty.

19 Q. And did you gain this familiarity by  
20 acquiring oil and gas leases and other agreements involving  
21 the transfer of drilling rights in the unit involved here and  
22 in the surrounding area?

23 A. Yes.

24 Q. And in your professional opinion, do the



1 terms you've just testified to represent the fair market  
2 value of and the fair and reasonable compensation to be paid  
3 for drilling rights within this unit?

4 A. They do

5 Q. Now, as to those respondents who are listed  
6 in Exhibit B as remaining unleased, do you recommend that  
7 they be allowed the following statutory options with respect  
8 to their ownership interest within the unit: One,  
9 participation; two, a cash bonus of five dollars per net  
10 mineral acre plus a one-eighth of eight-eighths royalty; or  
11 three in lieu of the cash bonus and one-eighth of eight-  
12 eighths royalty, a share in the operation of the well on a  
13 carried basis as a carried operator under the following  
14 conditions: Such carried operator should be entitle to his  
15 share of production from the tracts pooled accruing to his  
16 interest exclusive of any royalty or overriding royalty  
17 reserved in any leases, assignments thereof or agreements  
18 relating thereto of such tracts that only after the proceeds  
19 applicable to his share equal A) 300% of the share of such  
20 costs applicable to the interest of a carried operator of a  
21 leased tract or portion thereof; or B) 200% of the share of  
22 such costs applicable to the interest of a carried operator  
23 of an unleased tract or portion thereof?

24 A. Yes.

--

1           Q.       Do you recommend that the order provide that  
2 elections by respondents be in writing and sent to the  
3 applicant at Equitable Production Company, 1710 Pennsylvania  
4 Avenue, Charleston, West Virginia, 25328, Attention: Melanie  
5 Freeman, Regulatory?

6           A.       Yes.

7           Q.       And should this be the address for all  
8 communications with the applicant concerning any force  
9 pooling order?

10          A.       It should.

11          Q.       Now, do you recommend that the force pooling  
12 order provide that if no election is properly made by a  
13 respondent, then such respondent shall be deemed to have  
14 elected the cash royalty option in lieu of any participation?

15          A.       Yes.

16          Q.       Should the unleased respondents be given 30  
17 days from the date the order is executed to file written  
18 elections?

19          A.       They should

20          Q.       And if an unleased respondent elects to  
21 participate, should they be given 45 days to pay the  
22 applicant for their proportionate share of the well costs?

23          A.       Yes.

24          Q.       Does the applicant expect that party

--

1 electing to participate to pay in advance that party's share  
2 of completed well costs?

3 A. Yes.

4 Q. Should the applicant be allowed a 120 days  
5 following the recordation date of the Board order and  
6 thereafter annually on that date until production is achieved  
7 to tender or pay any cash bonus becoming due under the force  
8 pooling order?

9 A. Yes.

10 Q. Do you recommend the order provide if a  
11 respondent elects to participate but fails to pay their  
12 proportionate share of well costs satisfactory to the  
13 applicant for the payment of those costs, then respondents  
14 election to participate should be treated as having been  
15 withdrawn and void, in other words, deemed to have leased?

16 A. Yes.

17 Q. Do you recommend that the order provide that  
18 where a respondent elects to participate but defaults in  
19 regard to the payment of well costs, any cash sum becoming  
20 payable to such respondent be paid within 60 days after the  
21 last date on which such respondent could have paid or made  
22 satisfactory arrangements for the payment of those well  
23 costs?

24 A. Yes.



1           Q.       In this particular case, it's a conventional  
2 well and we do not have any unknown or unlocateable interest  
3 owners. So, there is no need for the Board to create an  
4 escrow account, is that correct?

5           A.       That's correct.

6           Q.       And who should be named the operator under  
7 any force pooling order?

8           A.       Equitable Production Company.

9           Q.       Now, what is the total depth of the proposed  
10 well under the plan of development?

11          A.       6720 feet.

12          Q.       Will this be sufficient to penetrate and  
13 test the common sources of supply in the subject formations?

14          A.       Yes.

15          Q.       Is the applicant requesting the force  
16 pooling of conventional of gas reserves not only to include  
17 the designated formations but any other formations excluding  
18 coal formations which may be between those formations  
19 designated from the surface to the total depth drilled?

20          A.       Yes.

21          Q.       And what are the estimated reserves for this  
22 unit?

23          A.       450 million cubic feet.

24          Q.       Now, are you familiar with the well costs

1 for the proposed well under the plan of development?

2 A. Yes.

3 Q. And has an AFE been reviewed, signed and  
4 submitted to the Board as Exhibit C to the application?

5 A. Yes.

6 Q. Was the AFE prepared by an engineering  
7 department knowledgeable in the preparation of AFEs and  
8 knowledgeable in regard to well costs in this area?

9 A. It was.

10 Q. In your opinion, does this AFE represent a  
11 reasonable estimate of the well costs?

12 A. It does.

13 Q. Could you state for the Board at this time  
14 both the dry hole costs and the completed well costs for  
15 507922?

16 A. The dry hole cost is \$200,173, and the  
17 completed well cost is \$352,217.

18 Q. And do these costs anticipate a multiple  
19 completion?

20 A. They do.

21 Q. Does your AFE include a reasonable charge  
22 for supervision?

23 A. It does.

24 Q. In your professional opinion, would the

1 granting of this application be in the best interest of  
2 conservation, the prevention of waste, and the protection of  
3 correlative rights?

4 A. Yes.

5 Q. One further question, in addition to these,  
6 Mr. Hall, I'm sure some of the Board members may not...have  
7 not seen this, but we've got a 180 acre square unit for a  
8 conventional well. Can you explain what that is?

9 A. That's...the Board order established by the  
10 Gas and Oil Board several years ago. It's called the  
11 Pilgrims Knob Field and it's for conventional wells.

12 Q. Okay. It's different in that it's not  
13 statewide spacing and the 2500 foot with a 1250 foot radius  
14 circle? It's different in that it is a conventional well and  
15 the units were established by the field rules?

16 A. That's correct.

17 JIM KISER: Nothing further of this witness at this  
18 time, Mr. Chairman.

19 BENNY WAMPLER: Questions of this witness from  
20 members of the Board?

21 (No audible response.)

22 BENNY WAMPLER: Do either of you gentlemen have  
23 questions?

24 BOBBY EUGENE MULLINS: Yes, I've got some



1 questions. We own 98 and 7/10th acres of mineral. They're  
2 wanting us to pool it with a company that owns 2800 acres  
3 adjoining all around there. They've surrounded us  
4 everywhere. We've got enough room for two wells on this 98  
5 and 7/10th acres. I've been told by gas men that knows what  
6 they're talking about. We've got plenty of room for two  
7 wells and not pool nobody's property. That's all we ask. We  
8 would just ask them to put the wells on our property instead  
9 of on somebody else's property.

10 BENNY WAMPLER: Mr. Hall, do you want to address  
11 that?

12 DON HALL: Well, again, this is in the Pilgrim's  
13 Knob Field and this acreage falls in several different units.  
14 So, I don't...under the field rules, I don't think you could  
15 drill two wells in 90 acres and not pool someone else because  
16 you've got field rules that include---.

17 BOBBY EUGENE MULLINS: 98 and 7/10th acres.

18 JIM KISER: But I think what he's trying to say is  
19 you have a field rule that was established by the Board that  
20 requires the units to be of a uniform size and that size is a  
21 180 acres.

22 DON HALL: And they're established.

23 JIM KISER: They're established.

24 BOBBY EUGENE MULLINS: For two wells?

1           JIM KISER: There could be only one well in each  
2 unit...in each 180 acre unit.

3           DON HALL: And that 90 acres falls over several of  
4 those units. So, that's the reason we can't just drill on  
5 that tract and not include it with other tracts because the  
6 Board has established a field rule that...like this square  
7 here. Your acreage falls in this corner or this square here.  
8 There's another square over here and another one up here.  
9 That acreage falls in that as well. So, you could...it looks  
10 to me like you could potentially be in at least three  
11 wells...share an interest in three wells.

12           BOBBY EUGENE MULLINS: Eventually, but when will  
13 that be?

14           DON HALL: Well, we've got to drill the first one  
15 first and see if it's---.

16           BOBBY EUGENE MULLINS: Well, why don't they drill  
17 it first on our property?

18           DON HALL: This is where our geologist chose the  
19 location.

20           JIM KISER: And maybe to help you also, Mr.  
21 Mullins, just because it's drilled on your property may  
22 not...it may or may not depend upon on how your acreage fits  
23 into the grid that this field rule is under these 180 acre  
24 squares. It may or may not...it may...whether it's on your

1 property or not, it may or may not need any additional  
2 royalty for you because it will be on a per capita basis. It  
3 would be based upon how much of your acreage...what  
4 percentage of your acreage is over the total percentage of  
5 the unit. Whether it's on your actual...actually physically  
6 on your property or not. Do you follow that?

7 BOBBY EUGENE MULLINS: Otherwise, they're going to  
8 pool 23 and something acres. That's going to leave the rest  
9 of it.

10 JIM KISER: Well, that would leave the rest of it  
11 theoretically for some other units if this well is  
12 successful.

13 BENNY WAMPLER: Do you have that field rule, the  
14 layout, anybody?

15 JIM KISER: And we can probably...you could  
16 probably have one of your land guys go by that...go by and  
17 show him the way that's laid out. That would help you  
18 understand.

19 DON HALL: Yeah.

20 BENNY WAMPLER: When the Board did those field  
21 rules---.

22 JIM KISER: It has been a long time ago, hasn't it?

23 BENNY WAMPLER: It has been a real long time. But  
24 the intent with any of those field rules having a checker  
--



1 board type of field rules versus the circular units was so  
2 that you don't have these areas under circular units where  
3 people are left out and not paid. That's the reason we came  
4 up with the check board type so that anytime that gas is  
5 extracted within that area ,that you'd be paid for a  
6 proportionate share of that unit.

7 BOBBY EUGENE MULLINS: Well, what I'm...what I'm  
8 saying is why do they want to pool ours when they could scoot  
9 their machine over a little bit on the other company and just  
10 drill all they want to?

11 DON HALL: Because yours falls in the unit that's  
12 established by the Board. So, we have to...we have to  
13 consider all the acreage within this 180 acre unit.

14 BILL HARRIS: Well, Mr. Chairman, if I might---.

15 BENNY WAMPLER: Mr. Harris.

16 BILL HARRIS: ---make a comment. There is...of  
17 course, this checker board just lays over that part of the  
18 state and they go in and pick out an area that's easy to get  
19 to, I would assume. I don't...there's no terrain here  
20 showing. But I would imagine easy to get to.

21 BOBBY EUGENE MULLINS: Yeah, they're putting it on  
22 a strip job where they don't have to do no dozing---.

23 BILL HARRIS: Well, that's---.

24 BOBBY EUGENE MULLINS: ---to make a well site.

--

1           BILL HARRIS: That's kind of understandable, if you  
2 think about it, the ease of getting through that. But there  
3 is...your property, if it's in the upper left on the map that  
4 we have, there is an opportunity for at least three other  
5 wells or at least three other plots there to eventually be  
6 drilled. I guess they started here and usually what the  
7 companies do is start and drill and see what happens. If  
8 seems like it's producing well, then they will go ahead and  
9 drill other areas. But they have to start somewhere. I  
10 mean, I can't speak to why they started with just a piece of  
11 yours rather than a larger section of yours.

12           JIM KISER: Well, I assume that not only as Mr.  
13 Harris says is more accessible location, but I assume there's  
14 some geology and engineering that went into it, also. They  
15 think that this...to drill the well there, they think  
16 scientifically that's their chance for the best maximum  
17 recovery of reserves is to drill it there versus somewhere  
18 else. There's a lot of thought and planning that goes into  
19 this. You know, the geologist are the ones that actually end  
20 up picking these spots.

21           BILL HARRIS: Yeah. And years ago it used to be if  
22 you had 98 acres, they would just come and you say drill on  
23 that property and that would...you know, they would drill in  
24 the middle of it or whatever. But there was so many gaps in  
--

1 the whole...you know, they would drill a well here and over  
2 here and then there wasn't room to drill one in between. So,  
3 the Board elected to overlay this checker board. It just so  
4 happens that 23 acres falls in the upper corner of that  
5 particular square. But it's more of yours in other squares  
6 and, again, there's no guarantee they will get there. But  
7 the assumption is they will eventually move to those as well.

8 BENNY WAMPLER: And this...and this plat---.

9 BOBBY EUGENE MULLINS: Well, now listen, we've got  
10 another company ready to lease this property. We've got  
11 another company already working on it. We ain't signed no  
12 contracts for nobody. We're...if they want to lease this  
13 property, we're going to lease it.

14 BILL HARRIS: Yeah. Now, that's your right to do.  
15 I mean, you can do that and it doesn't effect this lower 23  
16 because each of those squares is available to whoever decides  
17 to go in and drill and whoever talks with folks, you know, to  
18 do that. So, that's your prerogative to do.

19 JIM KISER: Well, you understand you're still going  
20 to be paid from this well?

21 BILL HARRIS: Yeah, you'll still get a---.

22 JIM KISER: Even though it's not on your property.  
23 You understand that, right?

24 BOBBY EUGENE MULLINS: I hope I do.

--



1           JIM KISER: Okay.

2           BENNY WAMPLER: Yes.

3           WILLIAM MULLINS: All of this 98.7 acres which they  
4 say here they were pooling 23.1 acres. They want to lease  
5 for like five years at 98.7. If they go in there and start  
6 producing and then after five years and still are...still  
7 producing gas, or they turn the lease back and no longer  
8 leasing it, then it may be hard for us to try to do anything  
9 with it providing this company don't take it like my brother  
10 is talking about there. Then we've only got 77 acres because  
11 23 of it has already been...it's no longer gone or whatever.  
12 Then what?

13           BILL HARRIS: Well, let me ask a question, this  
14 five year lease, are those usually renewable. I mean,  
15 normally if the well is producing---.

16           DON HALL: If the well is producing, they go by  
17 production.

18           BILL HARRIS: So, they renew the lease? I mean,  
19 this is an opportunity to renew it or what happens after five  
20 years, I guess, is his question?

21           JIM KISER: Well, if there's a producing well on  
22 the property or in a unit in which the property is included,  
23 then the lease goes into what's called its secondary term.  
24 It's extended by those royalty payments.

1           BILL HARRIS: Okay. So, if...well---.

2           DON HALL: As long as the royalty is being paid,  
3 it's---.

4           BILL HARRIS: So, it automatically continues? So,  
5 it doesn't end and then somebody else gets the money?

6           JIM KISER: Right.

7           BILL HARRIS: So, at the end of that five years,  
8 you would still be entitled to money, assuming the well is  
9 still producing.

10          WILLIAM MULLINS: Did I hear you say \$5 an acre?

11          JIM KISER: Yes, sir.

12          WILLIAM MULLINS: This here says \$3.

13          DON HALL: A \$5 bonus---.

14          JIM KISER: It's a \$5 bonus---.

15          DON HALL: ---and \$3 a year thereafter.

16          JIM KISER: \$5 up front and then \$3 an acre delay  
17 rental.

18          WILLIAM MULLINS: I didn't know how that worked.

19          JIM KISER: And we'd still like to have the lease,  
20 obviously, so if this first well is successful and we...you  
21 know, they go ahead and plat out additional wells which will  
22 take in the rest of your 98 acres and, again, may or may not  
23 actually physically be on that 98 acres, we won't have to  
24 come back and do this again. We'd be glad to continue,

--

1 obviously even after this is over, to try to negotiate a  
2 voluntary lease agreement.

3 BOBBY EUGENE MULLINS: Well, if there's any way  
4 around it, we would rather not to be pooled because that's  
5 going to knock us out of selling it probably.

6 JIM KISER: I don't know---.

7 BENNY WAMPLER: The other company you're talking  
8 about?

9 BOBBY EUGENE MULLINS: Uh-huh.

10 BILL HARRIS: Well, now the other company is  
11 limited to...they can't...if the square covers 23 acres of  
12 your property, then the other, what, 75 acres is in other  
13 squares. So, even if another company came along, you could  
14 not rent to them or lease to them all 98 acres because the  
15 state says where---.

16 BOBBY EUGENE MULLINS: That's what I'm  
17 saying...that's what I'm saying. That's going to hurt us.

18 BILL HARRIS: I'm not sure they're going to hurt  
19 you. Collectively, assuming these other squares get drilled  
20 in, then all of your---.

21 BOBBY EUGENE MULLINS: Yeah, but---.

22 BILL HARRIS: ---acreage is covered. It's just  
23 covered in four different---.

24 BOBBY EUGENE MULLINS: Suppose they don't...suppose  
--



1 they don't, then we've got 70 some acres of gas there that's  
2 just sitting there.

3 JIM KISER: Well, but theoretically...  
4 theoretically, the only reason we wouldn't drill the  
5 additional wells would be because this first well wasn't any  
6 good. If this first well isn't any good, then that other  
7 company is going to know that and they're not going to do  
8 anything either.

9 BOBBY EUGENE MULLINS: Well, that's...well, we  
10 don't blame nobody for not drilling---

11 JIM KISER: Right.

12 BOBBY EUGENE MULLINS: ---if the first well is no  
13 good. We know there is no use drilling another one on the  
14 same property.

15 JIM KISER: Does this field rule require any  
16 percentage of the unit to be under lease? Do you remember?

17 BENNY WAMPLER: I didn't see anything in glancing  
18 through it. Nothing beyond just the normal conventional  
19 standards of 25%.

20 JIM KISER: 25%.

21 BOBBY EUGENE MULLINS: Now, explain that 25%.

22 JIM KISER: At least in order to be able to come  
23 before the Board and present these applications, there has to  
24 be at least 25% of the unit under a voluntary lease, which

1 may present problems for that other company if Equitable has  
2 all the other leases in the area and these units being a 180  
3 acres.

4 BENNY WAMPLER: Mr. Hall, let me ask you a  
5 question. You're familiar with their property, the entire 90  
6 some acres?

7 DON HALL: Uh-huh.

8 BENNY WAMPLER: If this well were to produce, meet  
9 expectations, do you anticipate developing that other---?

10 DON HALL: I would think so.

11 BENNY WAMPLER: ---the entire 90 some acres of  
12 their property?

13 DON HALL: I would think so, yes.

14 BENNY WAMPLER: Do you know anything that would  
15 prevent you from doing that topographically or otherwise?

16 DON HALL: Well, obviously, we haven't looked at it  
17 that closely. I haven't done title on these adjoining  
18 tracts. So, there might be some other title issues involves  
19 in these units. But, you know, preliminarily, just what I  
20 know at this point, I don't see why---.

21 BENNY WAMPLER: As a typical plan of development,  
22 over what time would you think you would get to these units?

23 DON HALL: If this well is drilled and it's a  
24 pretty good, I'd say we'd drill the others within a year or

--

1 so.

2 BENNY WAMPLER: I mean, we'd have to assume the  
3 other company is offering you better lease terms than they're  
4 offering you, I guess---.

5 BOBBY EUGENE MULLINS: No, I don't what...I don't  
6 know what...I ain't ever got a hold of the main man yet. I'm  
7 working on it, but I ain't talked to the main one.

8 BENNY WAMPLER: I mean, basically what I hear you  
9 asking us to not permit him to go ahead with---.

10 BOBBY EUGENE MULLINS: Uh-huh.

11 BENNY WAMPLER: ---this pooling. There's really  
12 not a provision in law that allows us to not allow them to go  
13 forward based on waiting until you're able to try to find  
14 somebody else. I hope you understand that.

15 BOBBY EUGENE MULLINS: Yeah.

16 BENNY WAMPLER: We're trying to understand and make  
17 sure we understand your issues.

18 BOBBY EUGENE MULLINS: Well, now, let me say, if we  
19 can get this property drilled quick enough...we're all  
20 getting old. We're all getting old. Everyone of us is up in  
21 the sixties. We don't need to put it off. If they're going  
22 to drill a well and it's a producing well, then get on down  
23 there and drill another one and if it's a producing well, let  
24 them go on around and drill another one so they can take it

--



1 all.

2           DON HALL: It would make it easier if we had the  
3 lease.

4           BOBBY EUGENE MULLINS: Well, we'll have the lease  
5 if you'll write it up in that way, that you'll agree---.

6           JIM KISER: Well, we will even after today keep  
7 working with you on the voluntary lease. I mean, that's  
8 something Equitable does as a general rule and any prudent  
9 operator should do as a general rule. I think what Mr.  
10 Hall...Mr. Chairman Wampler's question was and I think he was  
11 getting at is for your benefit was, and what your primary  
12 concern is the entire 98 acres be developed or the gas from  
13 underneath the 98 acres be produced...developed and produced  
14 was that if this initial well in this area is good, then Mr.  
15 Hall testified---.

16           BOBBY EUGENE MULLINS: One well each year until  
17 they get three more wells.

18           JIM KISER: No, no, no. No, his testimony was that  
19 he anticipated or thought, you know, to the best of his  
20 knowledge that the rest of the acreage surrounding the rest  
21 of the area...the rest of the acreage in that area, which  
22 would include the rest of your 98 acres, would be developed  
23 probably within twelve months.

24           BOBBY EUGENE MULLINS: Would be another well

1 drilled?

2 JIM KISER: Well, at least one more.

3 BOBBY EUGENE MULLINS: Then it's a producing well

4 and they've got room for another one, another one would be

5 drilled within another year.

6 JIM KISER: Right.

7 BOBBY EUGENE MULLINS: Let's try to make it that

8 way so we can understand what we're doing.

9 WILLIAM MULLINS: Mr. Chairman, I've got one more.

10 BENNY WAMPLER: Yes, sir.

11 WILLIAM MULLINS: Your company there, do you know

12 have they leased the Brown mineral rights that adjoins this

13 property?

14 DON HALL: I'm not familiar with that right off the

15 top of my head. I don't have...I don't have my maps in that

16 area. I couldn't really say.

17 WILLIAM MULLINS: They're holding some property

18 over there and they have the mineral rights.

19 JIM KISER: Where would that be in relation to this

20 property?

21 WILLIAM MULLINS: It adjoins the same---.

22 JIM KISER: It's up in here somewhere?

23 WILLIAM MULLINS: Yeah. To the best of my

24 knowledge, it would be right in behind there. I know about

--

1 where this is at from the orchard which is Woosley Branch.

2 DON HALL: In what branch?

3 WILLIAM MULLINS: Woosley Branch.

4 BILL HARRIS: Let me ask just an informational

5 question.

6 BENNY WAMPLER: Mr. Harris.

7 BILL HARRIS: Mr. Hall, what...do you have any idea

8 what percent of the well that you all drill are dryholes that

9 just don't produce?

10 DON HALL: Pretty much zero.

11 BILL HARRIS: So most that you drill do produce---.

12 DON HALL: Right.

13 BILL HARRIS: ---gas to the point where it's

14 economically feasible to do this.

15 DON HALL: Right. I don't recall us ever plugging

16 a well from the beginning unless it was a mechanical failure.

17 We've plugged some after they've produced for several years,

18 but I don't recall ever plugging one.

19 BILL HARRIS: So, the expectation is if you drill

20 this well, then you would probably want to develop others

21 because it probably will produce based on the engineering

22 information that you'll have.

23 DON HALL: That's correct.

24 BENNY WAMPLER: Then---.



1           BILL HARRIS: There's no---.

2           BENNY WAMPLER: I'm sorry.

3           BILL HARRIS: There's no guarantee, of course. But  
4 probability is high.

5           BENNY WAMPLER: Would that development be toward  
6 the area on their property?

7           DON HALL: I would think. I think we would  
8 probably develop around this well.

9           BENNY WAMPLER: Around that well?

10          DON HALL: Yeah.

11          JIM KISER: Yeah, because remember your...it's not  
12 statewide spacing. It's 180 acre grid.

13          BENNY WAMPLER: I understand.

14          JIM KISER: So, that would only make sense.

15          BENNY WAMPLER: I mean, I don't know without seeing  
16 how their property lies within that. I didn't have the map  
17 of whether or not---.

18          JIM KISER: Of the whole grid.

19          BENNY WAMPLER: ---it falls in one more unit or two  
20 more. Do you know?

21          DON HALL: It looks to me---.

22          BENNY WAMPLER: It appears two more.

23          DON HALL: ---two more.

24          JIM KISER: Two more.

1           DON HALL: At least two more units, yes.

2           BENNY WAMPLER: That your property would fall into,  
3 which would be three wells at least. But without seeing that  
4 laid out---.

5           BOBBY EUGENE MULLINS: And we would draw 50% out of  
6 each well, right? I mean, 50% of what the well produces?

7           DON HALL: No, you'd draw your proportionate share  
8 of the 180 acre units...your proportionate share of the 180  
9 acres that's in the unit. In other words---.

10          BENNY WAMPLER: Explain that further to him.

11          BILL HARRIS: 23% in this---.

12          DON HALL: If...if you've got...well for instance,  
13 this well here has...has 12.83% of the acreage in this 180  
14 acre unit. So, this well here, you'd get 12.83% of the  
15 royalty. Then say the adjacent well over here, you might  
16 have 30% or 50% and you'd get 50% of the royalty. Then this  
17 one of over here you may have, you know, 70%. You'll get 70%  
18 of the royalty.

19          JIM KISER: It's tied to the proportionate share  
20 that your acreage makes up of the unit.

21          DON HALL: Right. In this particular case you---.

22          BOBBY EUGENE MULLINS: Would get half of it, and on  
23 this one we don't?

24          DON HALL: No, you'd get 12.83%.

--

1           BENNY WAMPLER: Whatever percentage of acreage you  
2 have within that unit is how it works out for the percentage.  
3 To help them just further understand, on a typical well,  
4 what would...what would that equate to annually in dollars,  
5 the 12.83%. Can you figure that out somewhere close?  
6           DON HALL: No, I'd hate to put out a figure because  
7 I can't---.  
8           BENNY WAMPLER: Well, I was just asking you in  
9 general terms. I know until you hit it and you knew...it  
10 would obviously be based on the---.  
11           DON HALL: If it produced a 100,000 a day and we're  
12 getting say \$3 a 1000 that would be what 300...\$300 a day; an  
13 eighth of that would be the royalty; then they get 12% of  
14 that eighth.  
15           JIM KISER: Almost 13%.  
16           DON HALL: Almost 13% of that eighth. You know,  
17 I'm figuring several...several hundred dollars a year. It  
18 depends on how good the well is and what you sell the gas  
19 for.  
20           GEORGE BAKER: Can I speak?  
21           BENNY WAMPLER: I need to have your name.  
22           GEORGE BAKER: I'm George Baker. I live...on  
23 this...on this property.  
24           COURT REPORTER: You need to come down here, sir.



1                   BENNY WAMPLER: I'm sorry. She can't...she can't  
2 get you. She was trying. She can't. We've got to have you  
3 down here. If you will come right over here by this mike.  
4 Did you get his name? Could you hear that? Well, we can  
5 hear you, but she has to be able to get it and record it.  
6 Okay, go ahead.

7                   GEORGE BAKER: I live on this property here. Where  
8 they're going to drill at over there across the hill from  
9 this property. On the...going up to this...on our property  
10 here, Ms. Brown...the Browns owns about a 100 and some acres  
11 that adjoins ours. I buy hay off of them up there. They've  
12 got hay on the strip job. And I was talking to her the other  
13 day. She hadn't leased hers to nobody. On up the hollow  
14 from where you go up on the strip job, it's all private owned  
15 land up in there. To get back on the Georgia Pacific  
16 Property, which they own, you'd have to go back across on the  
17 left side of Woosley Branch, back in front of my house and my  
18 brother-in-law's house. The checkerboard you all were  
19 talking about, I don't see no checkerboard there because back  
20 in that hollow where we live just about all of it is private  
21 owned land. Ms. Brown, like I told you, I was talking to  
22 her, she told me she hadn't leased hers to nobody unless  
23 they've done something or other in the last few days. I make  
24 that in their case. Maybe that would be a help to you'uns

1 because all of it is private owned, this whole tract was  
2 owned by a Woosley man back many years ago all the way out to  
3 the head of that hollow.

4 BENNY WAMPLER: Is that the surface or the mineral?

5 GEORGE BAKER: Mineral...I ain't sure on the  
6 minerals, but they own the gas. I know Ms. Brown does. She  
7 told me she did. I know on this ninety...on our property  
8 there, we own the coal in it. My brother-in-law sold the  
9 coal to Boyd Fowler, United Coal Company. My daddy-in-law  
10 excepted the gas and oil and the minerals...I mean, gas and  
11 oil off of the property. That's how come the heirship come  
12 in.

13 BOBBY EUGENE MULLINS: My father sold the coal from  
14 the creek bed down to the Lawson Matney. A man named Lawson  
15 Matney bought the coal from the creek bed down, and Boyd  
16 Fowler got it from the creek bed up.

17 GEORGE BAKER: And Ms. Brown property...Ms. Brown's  
18 property goes all the way out to the top of the hill and go  
19 over on the Orchard Branch side. Go down Orchard Branch  
20 side, and I've been there since 19...197...1965, and I  
21 timbered that in the '50s for my daddy-in-law. Cherry Tree  
22 Hollow is the name of this hollow where they're talking about  
23 where we own. Where they're drill...going to drill the well  
24 at over there in the Orchard Branch side, they ain't going to

--

1 be to far off from Ms. Brown's property. They may already  
2 had Ms. Brown's. I don't know. But she told me she  
3 didn't... they didn't have it not long ago. In fact, she  
4 told...I was talking about we might lease ours, she said if  
5 you do, to call me. She talked like she might would lease  
6 hers.

7 BENNY WAMPLER: Well, the issue we're dealing with,  
8 of course, is the fact that if a company has 25% of the  
9 acreage of the mineral under lease, they have the right to  
10 come to the Board and request that remaining acreage be  
11 pooled. They have everything here but 12.83%. That's what's  
12 represented to the Board that is under lease. That remainder  
13 is your family heirs is as far as I know is what's  
14 represented here today. And that's what we're dealing within  
15 this particular unit that the Board has previously  
16 established to protect the interest of everyone in that...in  
17 that pool. We certainly respect, you know, your concern.  
18 And that's why we've tried to pursue it, to get them on  
19 record saying they seem to have a reasonable plan to develop  
20 the other acreage and are willing to state it on the record  
21 to continue to negotiate with you to obtain a lease that you  
22 can agree to.

23 BOBBY EUGENE MULLINS: Okay. I'll agree with that.

24 WILLIAM MULLINS: Like on this 180 acres to drill a

--



1 well there and it's a producing well, then they want to drill  
2 another one other here, then that comes under another tract  
3 or plot?

4 JIM KISER: Yes, sir. Be in another 180 acre unit.

5 WILLIAM MULLINS: Another 180 acre unit?

6 BENNY WAMPLER: Yes, sir. And they'd have to come  
7 back before the Board if they were to do any pooling. Now,  
8 if everybody in that...in that area agreed, then they  
9 wouldn't have to come here. But they have to come here if  
10 they're going to pool anybody. You know, if they're going to  
11 do a force pooling, they have to come here before the Board  
12 and they would do that with any of them that impacted your  
13 land. They'd have to come here if you didn't sign a lease  
14 with them for each one. We're just trying to make sure we  
15 answered your questions that we can get answered for you here  
16 today while we've got them here.

17 GEORGE BAKER: If that get...they had to get Ms.  
18 Brown's property. If they don't until they come back down  
19 off of the hill and cross Woosley Branch and get on...well,  
20 we call it Georgia Pacific property. I think they've got a  
21 place up there where they're going to drill up there. Then  
22 this drill being less than, what is it, 2,000 feet to the  
23 property line, is that what it is on the law on that? About  
24 1500?

--

1           BENNY WAMPLER: It's 1700 feet between wells, is  
2 that what you're talking about?

3           GEORGE BAKER: It wouldn't be 1700 feet back down  
4 to our property line on the left hand side of Woosley Branch,  
5 going up the creek see.

6           BENNY WAMPLER: Right. I don't...here, again,  
7 without seeing how this hits certain properties, we don't  
8 know and they wouldn't know whether or not they or anyone  
9 else would have enough parties in there they could lease to  
10 get their 25% to go ahead with the well. Otherwise, they  
11 couldn't do it. They couldn't go forward unless they can get  
12 at least 25% leased.

13          DON HALL: This is a new area to us and we're just  
14 getting started here. So, you know, I don't have a lot of  
15 details about adjoining tracts or adjoining information.  
16 We're just starting here and go from there.

17          BENNY WAMPLER: That might be helpful to these  
18 folks if you could sit down with them and look...take a look  
19 at that and see what your plan of development would be and lay  
20 that out for them.

21          DON HALL: Yeah.

22          GEORGE BAKER: Do you all own the well over from  
23 this?

24          DON HALL: We probably do. I think it's probably a

--

1 well that we acquired from...I believe Ashland may have  
2 drilled that well. We've acquired some---.

3 GEORGE BAKER: On around...on that same strip job  
4 there---.

5 DON HALL: Yeah.

6 GEORGE BAKER: ---there's two more wells.

7 DON HALL: I think it's probably the well we  
8 acquired recently...probably a recent purchase.

9 BENNY WAMPLER: Any other questions from members of  
10 the Board?

11 KEN MITCHELL: Mr. Chairman, just to comment, if I  
12 could, that if the Board votes to pool the additional acreage  
13 even without a signed lease, because I know there's seven  
14 unsigned leases here, that money will be put into an escrow  
15 account. Is that...is that---?

16 DON HALL: That won't be necessary---.

17 JIM KISER: No.

18 DON HALL: ---to escrow it.

19 KEN MITCHELL: It will not be escrowed?

20 JIM KISER: No, they'll get paid directly.

21 DON HALL: Yeah.

22 KEN MITCHELL: Okay. So, it has got to...it has  
23 got to be a signed lease?

24 DON HALL: We've got all the parties identified.

--



1           JIM KISER: Now, the pooling order will...yeah, all  
2 the parties...in a conventional well, since the only time you  
3 have escrow is if you've got an unknown or an unlocateable  
4 party.

5           KEN MITCHELL: Okay. Okay.

6           JIM KISER: So, they'll get paid directly. Under  
7 the order they'll be paid their royalty directly. It won't  
8 be escrowed.

9           DON HALL: Of course, they've got the three  
10 elections.

11          JIM KISER: Yeah. Or they can participate or be  
12 carried.

13          KEN MITCHELL: So, they'll be paid directly then?

14          JIM KISER: Yeah.

15          BENNY WAMPLER: Have you explained that to them,  
16 the participation and carried? I know you did the testimony  
17 here today.

18          JIM KISER: I doubt it. I'll be more than happy  
19 to. Under this order, should the Board approve this  
20 application, then you're allowed three statutory options as a  
21 force pooled party. One would be essentially to lease, which  
22 means you would get your \$5 bonus per net mineral acre, then  
23 you would get your one-eighth royalty, which we've talked  
24 about, which would be 12 1/2% of 12.83...12 and 1/2...one-

--

1 eighth of 12.83% of the coal royalty on this particular well.  
2 Your other two options would be to directly participate,  
3 which means you become a working interest partner in the  
4 well. In order to do that, you would have to pay in advance  
5 12.83% of an estimate of \$352,217.

6 BOBBIE MULLINS: Well, there wouldn't be no way  
7 that we could pay that like that.

8 JIM KISER: Well, but that's...would be your  
9 option. Then your last option would be to be a carried  
10 interest owner, which would mean...let's see, in the sense of  
11 an unleased tract, it's 200%. Once the well has reached 200%  
12 of payout, again theoretically. So, in other words, once it  
13 has produced about \$700,000 in---.

14 DON HALL: Revenue.

15 JIM KISER: ---revenue, then at that point you  
16 would come in as a carried interest owner and receive, I  
17 guess, eight eighths or 12.83%. But you wouldn't get anything  
18 until that happened. The risk you take there is it may never  
19 happen. It may never generate \$700,000 in revenue.

20 BENNY WAMPLER: But those are the options that  
21 you'll have under...that's in the law. It's in any order  
22 that the Board has. If the Board approve it, then you would  
23 have that before any of this goes into effect. In the  
24 meantime, there will be talking to you about trying to lease  
--

1 your property.

2 BOBBIE MULLINS: Okay.

3 BENNY WAMPLER: Anything further from members of  
4 the Board?

5 (No audible response.)

6 BENNY WAMPLER: Did you all have anything further?  
7 Any other...we need you to come down.

8 INEZ MULLINS: My name is Inez Mullins. I live on  
9 part of the acreage right now, too. How far are these wells  
10 going to be from one from the other? How far apart?

11 DON HALL: Probably 2500 feet.

12 JIM KISER: I would think at least given the size  
13 of these units.

14 INEZ MULLINS: Okay, then like on my property, it  
15 will not be on my six acres? There won't be any wells or  
16 lines on my property?

17 DON HALL: Not to my knowledge. I don't think we  
18 have any...for this particular well, I don't think we have  
19 anything...any of the operations planned on anything other  
20 than Georgia Pacific tract of property. So, there's no  
21 operations of any kind.

22 INEZ MULLINS: Okay, I was going to say, I won't  
23 have anything on my property. I wouldn't sign it if it was  
24 going to be on my property.

--



1           JIM KISER: Well, then the Board takes the position  
2 that these force pooling orders do not grant any surface  
3 rights anyway. We'd have to have a lease or a right-of-way.  
4 Some separate instrument---.

5           INICE MULLINS: Separate from the gas?

6           JIM KISER: ---negotiated with you. Separate from  
7 this pooling order to be able to come on your surface.

8           INEZ MULLINS: Okay. That's all I wanted to know.  
9 Thank you.

10          BENNY WAMPLER: Thank you. Do you all have  
11 anything further, Mr. Kiser?

12          JIM KISER: We'd ask that the application be  
13 approved as submitted, Mr. Chairman.

14          BENNY WAMPLER: If there a motion?

15          DONALD RATLIFF: So moved.

16          BENNY WAMPLER: Motion to approve.

17          BILL HARRIS: Second.

18          BENNY WAMPLER: Second. Any further discussion?  
19 (No audible response.)

20          BENNY WAMPLER: All in favor, signify by saying  
21 yes.

22          (All members signify by saying yes.)

23          BENNY WAMPLER: Opposed, say no.  
24 (No audible response.)

--

1           BENNY WAMPLER: You have approval. I hope you  
2 folks can get it worked out and it goes well for you. Before  
3 we leave, I've got the minutes from the April 15th meeting.  
4 I would ask if you had any corrections or anything.  
5 Otherwise, I would entertain a motion to approve.  
6           KEN MITCHELL: So moved, Mr. Chairman.  
7           DONALD RATLIFF: Second.  
8           BENNY WAMPLER: Motion to approve and second. Any  
9 further discussion?  
10           (No audible response.)  
11           BENNY WAMPLER: All in favor, signify by saying  
12 yes.  
13           (All members signify by saying yes.)  
14           BENNY WAMPLER: Opposed, say no.  
15           (No audible response.)  
16           BENNY WAMPLER: You have approval. Mr. Wilson, do  
17 you have anything further?  
18           BOBBIE MULLINS: No, sir.  
19           BENNY WAMPLER: The hearing is concluded. Thank  
20 you.  
21  
22  
23  
24  
--

1 STATE OF VIRGINIA,

2 COUNTY OF BUCHANAN, to-wit:

3 I, SONYA MICHELLE BROWN, Court Reporter and Notary  
4 Public for the State of Virginia, do hereby certify that the  
5 foregoing hearing was recorded by me on a tape recording  
6 machine and later transcribed by me personally.

7 Given under my hand and seal on this the 2nd day of  
8 June, 2003.

9 NOTARY PUBLIC

10  
11 My commission expires: August 31, 2005.

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